

(b) Applicants may file a reply to opposing comments, within 60 days after the date the application was published.

(1) The reply may include a request for an expedited decision on the issues raised by the comments. Otherwise, the reply may not contain any new evidence, but shall only rebut or further explain matters previously raised.

(2) The reply shall be verified, as provided in 49 CFR 1182.8(e), unless it consists strictly of legal argument.

(3) Applicants' reply must be served on each commenter in such manner that it is received no later than the date it is due to be filed with the Board.

(4) Opposing commenters may reply to a request for an expedited decision, within 70 days after notice of the application was published.

(c) The Board may:

(1) Dispense with further proceedings and make a final determination based on the record as developed; or

(2) Issue a procedural schedule specifying the dates by which: applicants may submit additional evidence in support of the application, in response to the comment(s) in opposition; and the opposing commenter(s) may reply.

(d) Further processing of an opposed application will be handled on a case-by-case basis, as appropriate to the particular issues raised in the comments filed in opposition to the application. Evidentiary proceedings must be concluded within 240 days after publication of the notice of the application.

§ 1182.7 Interim approval.

(a) A party may request interim approval of the operation of the properties sought to be acquired through the proposed transaction, for a period of not more than 180 days pending determination of the application. This request may be included in the application or may be submitted separately after the application is filed (e.g., once a comment opposing the application has been filed). An additional filing fee is required, whether the request for interim approval is included in the application or is submitted separately at a later time. *See* 49 CFR 1002.2(f)(5) for the additional filing fee.

(b) A request for interim approval of the operation of the properties sought to be acquired in the application must show that failure to grant interim approval may result in destruction of or injury to those properties or substantially interfere with their future usefulness in providing adequate and continuous service to the public.

(c) If a request for interim approval is submitted after the application is filed, it must be served on each person who files or has filed a comment in response to the published notice of the application. Service must be simultaneous upon those commenters who are known when the request for interim approval is submitted; otherwise, service must be within 5 days after the comment is received by applicants or their representative.

(d) Because the basis for requesting interim approval is to prevent destruction of or injury to motor passenger carrier properties sought to be acquired under 49 U.S.C. 14303, the processing of such requests is intended to promote expeditious decisions regarding interim approval. The Board has no obligation to give public notice of requests for interim approval, and such requests are decided without hearing or other formal proceeding.

(1) If a request for interim approval is included in the application, the Board's decision with regard to interim approval will be served in conjunction with the notice accepting the application.

(2) If an application is rejected, the request for interim approval will be denied.

(3) If an application is denied, after comments in opposition are submitted, any interim approval will terminate 30 days after service of the decision denying the application.

(e) A petition to reconsider a grant of interim approval may be filed only by a person who has filed a comment in opposition to the application.

(1) A petition to reconsider a grant of interim approval must be in writing and shall state the specific grounds upon which the commenter relies in opposing interim approval. The petition shall certify that a copy has been served on applicants' representative.

(2) The original and 10 copies of the petition to reconsider a grant of interim approval shall be filed with the Board, and one copy of the petition shall be served on applicants' representative(s).

(f) The Board may act on a petition to reconsider a grant of interim approval either separately or in connection with the final decision on the application.

§ 1182.8 Miscellaneous requirements.

(a) If applicants wish to withdraw an application, they shall jointly request dismissal in writing.

(b) An original and 10 copies of all applications, pleadings, and other material filed under this part must be filed with the Board.

(c) All pleadings (including motions and replies) submitted under this part shall be served on all other parties, concurrently and by the same (or more expeditious) means with which they are filed with the Board.

(d) Each pleading shall contain a certificate of service stating that the pleading has been served in accordance with paragraph (c) of this section.

(e) All applications and pleadings containing statements of fact (i.e., except motions to strike, replies thereto, and other pleadings that consist only of legal argument) must be verified by the person offering the statement, in the following manner:

I, [*Name and Title of Witness*], verify under penalty of perjury, under the laws of the United States of America, that all information supplied in connection with this application is true and correct. Further, I certify that I am qualified and authorized to file this application or pleading. I know that willful misstatements or omissions of material facts constitute Federal criminal violations punishable under 18 U.S.C. 1001 by imprisonment up to five years and fines up to \$10,000 for each offense. Additionally, these misstatements are punishable as perjury under 18 U.S.C. 1621, which provides for fines up to \$2,000 or imprisonment up to five years for each offense.

[*Signature and Date*]

(f) If completion of a transaction requires the transfer of operating authorities or registrations from one or more parties to others, the parties shall comply with relevant procedures of the Office of Motor Carriers of the

U.S. Department of Transportation, and comply with ministerial requirements of relevant State procedures.

PART 1184—MOTOR CARRIER POOLING OPERATIONS

Sec.

1184.1 Scope and purpose.

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1184.3 Processing pooling applications.

AUTHORITY: 49 U.S.C. 721, 14302.

SOURCE: 46 FR 21181, Apr. 9, 1981, unless otherwise noted. Redesignated at 47 FR 49595, Nov. 1, 1982.

§ 1184.1 Scope and purpose.

This statement of policy on motor carrier pooling applications implements section 20 of the Motor Carrier Act of 1980 [Pub. L. No. 96-296, 94 Stat. 793]. The Act's provisions are now contained at 49 U.S.C. 11342(b).

§ 1184.2 Contents of a pooling application.

A pooling application filed under 49 U.S.C. 11342(b) should include the following information:

(a) An identification of all the carriers who are parties to the pooling agreement;

(b) A general description of the transaction;

(c) A specific description of the operating authorities sought to be pooled;

(d) The basis to establish that the agreement is a genuine pooling arrangement (as opposed to a lease or interline arrangement);

(e) A description of what applicants consider to be the relevant transportation markets affected by the proposed agreement;

(f) The competitive routing and service alternatives that would remain if the agreement is approved, to the best of applicant's knowledge;

(g) If there is a lessening of such alternatives, an estimate of the public benefits that will accrue from approval, or new competition that will arise, which would offset such lessening;

(h) A narrative assessment of how the pooling arrangement will affect present and future competition in the area, including a description of the projected volume of traffic, the revenues,